

REMARKS/ARGUMENTS

Applicant is concurrently submitting an Information Disclosure Statement containing two prior art references, EP 0385433 and an article written by Browne *et al.* These references came to light during prosecution of application 09/535,300, Schwabacher *et al.*, which is assigned to the same entity that owns Applicant's application.

Applicant has amended claims 2, 5-7, and 9-13 to depend on independent claim 35, which Examiner has allowed.

Claim Rejections—35 U.S.C. § 112 ¶1

Claims 37-39 have been canceled.

Claim Rejections—35 U.S.C. § 103(a)

The rejection of claim 41 under 35 U.S.C. § 103(a) over Gross (U.S. Pat No. 4,867,946) in light of Zuk (U.S. Pat. No. 4,281,061) is respectfully traversed.

Gross teaches the use of paper strips each having identical linear arrays of chemically reactive substances as opposed to strips with "different arrays of chemically reactive substances" required of claim 41. The paper strips of Gross are individually exposed to different urine samples as opposed to the "mutual exposure [of the strips] to a material to be screened" required of by claim 41. The frame of Gross is only used for photometric (light) analysis. Gross does not teach a "library" of different strips and the placing of a "subset of the library of strips" into the frame because all the strips of Gross are the same so there is not meaningful library/subset relationship.

Zuk teaches kits for preparing liquid reagents. Accordingly Zuk does not remedy the deficiencies of Gross because Zuk also does not teach strips with "different arrays of chemically reactive substances" required of claim 41. Nor does Zuk teach "mutual exposure [of the strips] to a material to be screened" required of by claim 41. Finally, Zuk does not teach a "library" of different strips and the placing of a "subset of the library of strips". Accordingly even the combination of Gross and Zuk, assuming such a combination were proper, would not meet the limitations of claim 41.

The Examiner maintains that Applicant has not shown support for the chemical screening kit limitation in Claim 41. A kit is clearly disclosed at page 4, lines 8-12, at page 4 lines 22-25, and at page 10, lines 7-17,.

“Multiple strips may be processed in parallel to obtain the benefit of efficient production of large numbers of the strips. Yet, the strips are easily handled and identified and may be assembled into dense, planar arrays with desired, arbitrary row variations. By using strips, an improved tradeoff between mass production and flexibility is obtained” (page 4, lines 8-12).

“Thus it is one object of the invention to facilitate the screening of a chemical compound against large numbers of sampling compounds in an efficient and yet flexible way. Each strip may be manufactured in a batch including many other strips and, then separated from the batch and assembled to produce a variety of different arrays” (page 4, lines 22-25).

Referring now to Fig. 4, it will be understood that the technique of assembling short lengths of the filaments 10 into an array 32 allows a wide variety of semi-custom arrays 32 to be created from a more limited set of standard filaments 10. In Fig. 4, the letters indicate different sampling compounds 14. The sequence of sampling compounds 14 of each row formed by a filament 10 will be defined by the set of standard filaments 10. Nevertheless, the number of different arrays 32 will be equal to the mathematical combination of the number of different filament types, a far larger number. For example, from a library of 400 standard fibers, 10^{119} different 200 fiber arrays 32 may be created. In this way, the use of filaments 10 to create an array 32, leverages a limited number of filament types into an extremely flexible variety of arrays 32. The arrays 32 may be assembled efficiently by robotic techniques or the like and may be verified by reading the identification markers 24 unique to each filament. (page 10, lines 7-17)

The validity of kit format claims is well established and the word "kit" itself need not be in the specification if a kit in fact is clearly described. Applicant recognizes that the Examiner has previously rejected the use of kit type claims, but has put this claim back into the case because it most clearly expresses the invention, is legally proper, and because the Examiner rejected the alternative formulation offered by the Applicant of "semi-custom array for chemical screening".

New claims 43–52 depend on claim 41.

Claims 1, 8, 34, 36–40, and 42 have been canceled.

In light of these amendments and remarks it is believed that claims 2, 5-7, 9-13, 35, 41, and 43-52 are now in condition for allowance and allowance is respectfully requested.

Although no additional fees are believed due for filing this amendment, if an additional fee is deemed to be due, please charge any fee to Deposit Account No. 17-0055.

Respectfully submitted,

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